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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~425.~~ 210

THE UNITED STATES, APPELLANTS, vs. JOHN BOHN.

APPEAL FROM THE COURT OF CLAIMS.

FILED DECEMBER 19, 1870.

SUPREME COURT OF THE UNITED STATES.

No. 425.

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1 In the United States Court of Claims.

JOHN BOHN
vs.
THE UNITED STATES. } No. 3764.

To the honorable the Court of Claims of the United States:

The petition of John Bohn, of the city of Washington, in the District of Columbia, respectfully represents that he is and has been employed on the public grounds in the city of Washington, D. C., from the thirtieth day of June, 1866, to the thirtieth day of June, 1867, appointed in conformity with law by the Commissioner of Public Buildings, by which appointment he became an employé in the office of the said Commissioner of Public Buildings, and the pay received by him annually has been and is six hundred and twenty-six dollars, and the same was regularly paid to said Bohn by the said Commissioner of Public Buildings.

Your petitioner further represents, that the Congress of the United States did, at the second session of the Thirty-ninth Congress, pass a joint resolution giving additional compensation to certain employées in the civil service of the United States, which joint resolution was approved and signed by the President of the United States, on the 28th day of February, 1867, and is in the words following, viz:

2 "That there shall be allowed and paid out of any money in the Treasury, not otherwise appropriated, to the following described persons, now employed in the civil service of the United States, at Washington, as follows: To civil officers, and temporary and all other clerks, messengers, and watchmen, including enlisted men detailed as such, to be computed upon the gross amount of the compensation received by them, and employées, male and female, in the Executive Mansion, and in any of the following-named Departments, or in any Bureau or division thereof, to wit: State, Treasury, War, Navy, Interior, Post Office, Attorney General's, Agricultural, and including civil officers, and temporary and all other clerks and employées, male and female, in the office of the Coast Survey, Naval Observatory, Navy Yard, Arsenal, Paymaster General, including the division of referred claims, Commissary General of Prisoners, Bureau of Refugees, Freedmen, and Abandoned Lands, Quartermaster's, Capitol and Treasury Extension, City Post Office, and Commissioner of Public Buildings; to the photographer of the Treasury Department, to the superintendent of meters, and to lamp-lighters under the Commissioner of Public Buildings, an additional compensation of twenty per centum on their respective salaries as fixed by law, or where no salary is fixed by law, upon their pay respectively for one year from and after the 30th day of June,

3 1866. But when any of said persons is or shall be only entitled to receive salary or pay for a part of said year, the said twenty per centum shall be computed on the amount such person is so entitled to receive for services in any or all of said Departments or offices within said year: *Provided*, That the above-named additional compensation to the employées of the Patent Office shall be paid out of the funds of said office: *Provided further*, That this resolution shall not apply to persons whose salaries as fixed by law exceed three thousand five hundred dollars per annum."

And your petitioner avers that, being an employé in the office of the Commissioner of Public Buildings, he verily believed that he was en-

titled to the additional compensation of twenty per centum on his pay of six hundred and twenty-six dollars per anuum.

That, upon application to the proper officer of the Treasury, having the power to decide upon his application, to wit, the First Comptroller thereof, he decided that your petitioner was not entitled thereto. His decision being at that time verbal, your petitioner caused application to be again made formally, in writing, as well for himself as for others, to which application the First Comptroller replied as follows:

"TREASURY DEPARTMENT,
"COMPTROLLER'S OFFICE, *April 23rd*, 1867.

"SIR: I have examined the questions presented by you in relation to the claim of twenty per cent. additional compensation made by
4 sundry persons formerly employed under the Commissioner of Public Buildings, and have come to the conclusion that the persons named are not within the provisions of the joint resolution of February 28th, 1867.

"Very respectfully,

"R. W. TAYLOR, *Comptroller.*

"Major B. B. FRENCH, *Washington.*"

Your petitioner therefore makes application to this honorable court for that justice which he thinks has been denied to him by said Comptroller of the Treasury, no reason having been given for such denial. He therefore prays judgment against the United States for the amount of said per centum from June 30th, 1866, to June 30th, 1867, amounting to one hundred and twenty-five dollars and twenty cents.

Your petitioner is the sole owner of this claim, and no other person has any interest in the same. He has, at all times borne true allegiance to the Government of the United States, and has not in any way voluntarily aided, abetted, or given encouragement to rebellion against it.

J. DANIELS,
Attorney for Plaintiff.

5 DISTRICT OF COLUMBIA,
County of Washington:

On the 18th day of August, 1868, John Bohn, the petitioner, appeared before me and made oath that he is the sole owner of the claim set forth in his petition, and that he has never made any assignment or transfer of the same, or any part thereof, or interest therein, and that he is justly entitled to the amount therein stated, and that he believes the facts as stated in his petition are true.

JOHN BOHN.

Witness my hand and seal on the day and year above written.

Subscribed and sworn to before me this 18th day of August, 1868.
[SEAL.] JA'S LYNCH, *J. P.*

(Indorsed: 3764. John Bohn vs. The United States.

6 In the Court of Claims of the United States.

JOHN BOHN
vs.
THE UNITED STATES. } No. 3764.

Special plea for defendants.

And the said defendants, by their Attorney General, now come, and, by leave of court, (as expressed in Rule IX,) say that the said claimant ought not further to maintain his said action, because—

1. While the claim presented in this petition is such as is ordinarily settled in an Executive Department, the petition does not set forth the decision thereon of the proper Department of the Government to which application was (as is alleged) made for the payment of the claim. (Rule II.)

2. The petition does not set forth a full statement of the action, on the claim therein presented, by a Department of the Government, as required by section 1 of the act of February 4, 1855.

3. The evidence in the case does not show that any such application has ever been made to any Department of the Government, whether with or without success, or any action whatever thereon, without which action this court has no lawful jurisdiction in this case.

And the said defendants pray judgment, &c.

THOMAS H. TALBOT,
Assistant Attorney General.

7 In the Court of Claims.

JOHN BOHN
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THE UNITED STATES. } 3764.

And now, to wit, 23d of May, A. D. 1870, the court, upon due consideration of the premises, find in favor of the claimant, and do order, adjudge, and decree that the said John Bohn have and recover of and from the United States the sum of one hundred and seventy-two dollars, eighty cents, ($172 80.)

By the court:
A true copy of record.

8 Court of Claims, Dec. term, 1869.

JOHN BOHN
vs.
THE UNITED STATES. } 3764.

The defendants, by their Attorney General, come and ask the court for the allowance of an appeal of this case to the Supreme Court of the United States, on the ground that the judgment will affect a class of cases.

THOMAS H. TALBOT,
Ass't Att'y Gen'l.

Filed in clerk's office Aug. 17, 1870.

AT CHAMBERS.

Ordered, That the appeal as prayed in said cause be allowed.
Sept. 26, 1870.

JOSEPH CASEY,
Ch. Justice.

9 In the Court of Claims of the U. S., December term, 1869.

I, Edw'd G. Loring, presiding judge of the Court of Claims, do hereby certify that the judgment rendered in the case of John Bohn vs. The United States, on the 23d day of May, 1870, affects a class of cases, and furnishes a precedent for the future action of an Executive Department in the adjustment of such class of cases.

EDW. G. LORING.

10 In the United States Court of Claims.

JOHN BOHN
vs.
THE UNITED STATES. } No. 3764.

The finding of facts and the conclusions of law on said facts, on which the court founded its opinion.

This cause coming on to be heard the 23 day of May, 1870, before all the judges of the Court of Claims, the said court finds as matters of fact:

That the claimant was an employé in the office of the Commissioner of Public Buildings as a laborer on public grounds, and was in office from the 30th day of June, 1866, until the 30th day of June, 1867, at a salary of $864 per year.

That application was made to the First Comptroller of the Treasury to be allowed the additional compensation of 20 per centum on his salary, under the joint resolution of Congress, approved February 28th, 1867, and that such compensation was refused.

That he was loyal to the Government of the United States, and that he took the oath of allegiance, commonly called the test oath.

11 The claimant was not employed within the [four walls of the] office of the Commissioner of Public Buildings.

By the court.

The defendants also requested the court to make the following findings, which request was refused:

John Bo*ne* was a laborer on public grounds from June 30th, 1866, to June 30th, 1867.

His pay was $600 per annum, which was increased 20% on March 2ond, 1867, making it $720. (See 14 St. L., 205 & 456, & compare the same with testimony of James Daly.)

On March 2ond, 1867, the office of Commissioner of Public Lands was abolished. (14 St. L., 466.)

The claimant never made application for the settlement and payment of his claim, either before or during this litigation, to any Department of the Government in which such claims are ordinarily settled.

(Indorsed:) 3764. John Bohn vs. The United States.

12 In the Court of Claims.

JOHN BOHN
vs.
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I, John Randolph, assistant clerk of the Court of Claims, do hereby certify that the foregoing are true transcripts of the pleadings in the above-entitled cause, and the final judgment of the court thereon; of the application of the Attorney General for the defendants for the allowance of an appeal, as filed in the clerk's office Aug. 17, 1870, and of the order of Chief Justice Casey allowing the same; of the certificate of the presiding judge; of the findings of fact on which the court founded its judgment, and of the requested findings by the defendants, which request was denied by the court.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Washington, this 17th day of December, 1870.

[SEAL.] JOHN RANDOLPH,
Ass't Clerk Court of Claims.

(Indorsement on cover:) No. 425. The United States, appellants, vs. John Bohn. Court of Claims. Filed 19th December, 1870.